

Artykuły

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The Outline of the Legal Situation of Muslims in Poland

Abstract

Muslims have lived in the present-day territory of Poland for three centuries and during that time they have enjoyed freedom of religion. In the past most of the Muslims served in the Polish army and their status was comparable to that of Polish nobility. They were allowed to practice their religion, built mosques etc. Nowadays the legal situation of Muslims in Poland is relatively better than in many other European countries, and the reason for this is that Islam is perceived in Poland as a traditional religion – also by the Polish law. Poland officially recognized Islam as a religion in 1936 and was the third country in Europe to do so, following Austria-Hungary and Finland. Due to this fact, Muslims in Poland have more rights than only those resulting from the general regulations concerning freedom of religion. Islam is taught at public schools and teachers are financed by the state, the Muslim ritual slaughter is allowed, the institution of *waqf* functions in the Polish law etc. Not only Polish traditional Muslims, Tatars, benefit from these rights and regulations, but also immigrants of Muslim background. This text presents the historical development of the legal situation of Muslims in Poland starting from the origins of their presence and demographic data concerning Polish Muslims. It also discusses the details of their present-day legal situation such as these concerning the official recognition by the state, marriage, religious instruction at schools, ritual slaughter, funeral, dress code and places of prayer.

1. Introduction – Muslims in Poland before 1918

The history of Islamic presence in Poland dates back to the 14th century and the first written mention of Muslims in Polish historiography goes back to the year 1397 and was made in *Roczniki czyli Kroniki Królestwa Polskiego* (“The Annals of Jan Długosz”) by Polish chronicler Jan Długosz.¹

The Muslims mentioned in the Annals were Tatars, who originated from the Mongol state of the Golden Horde established in Eastern Europe. The Khanate of Golden Horde was nominally Islamic since the 13th century.² The Grand Duchy of Lithuania, in a personal union, that is connected through the person of the ruler, with Poland (known then as the Crown of the Polish Kingdom, Pol. *Korona Królestwa Polskiego*) since 1385, shared borders with the Golden Horde and fought against it to prevent its invasions of Lithuanian lands.

The first Muslims to settle in the Grand Duchy of Lithuania were war prisoners and political refugees, and later mercenaries brought by the Grand Duke to fight the enemies of Lithuania, including the Order of the Teutonic Knights of St. Mary’s Hospital in Jerusalem, known in Polish as *Krzyżacy* (*The Teutonic Knights*). Lithuania was the last country in Europe to be Christianized in 1385, and was invaded by the Order on many occasions.

In the 15th century the Grand Duke of Lithuania, Vytautas the Great, began to settle Tatars on his lands. In return for military service under the command of Lithuanian princes and for fighting the enemies of Lithuania, Tatars were granted principal fief (Pol. *ziemia hospodarska*, that is granted by a prince) together with a social status similar to that of the local nobility called boyars (Pol. *bojarstwo*).³ The number of Tatar settlers increased in the subsequent centuries,⁴ and it is estimated that during the course of the 16th and 17th centuries the Muslim population reached even 25,000.⁵ In addition to land,

¹ J. Długosz, *Annales seu cronicae incliti Regni Poloniae (Roczniki czyli kroniki sławnego Królestwa Polskiego) sub anno 1397*, Warszawa 1981, book X, p. 288–289.

² Tatars coming to Polish territories were a mixture of local Turkic tribes, mainly Kipchak, and Mongol invaders. The origins of the name ‘Tatar’ – see: J. Tyszkiewicz, *Tatarzy na Litwie i w Polsce. Studia z dziejów XIII–XVIII w.*, Warszawa 1989, p. 59f.

³ There were also Tatars settled in cities whose occupation was handicraft – they did not possess the privileges of the Tatars-fief holders; S. Kryczyński, *Tatarzy litewscy. Próba monografii historyczno-etnograficznej*, „Rocznik Tatarów Polskich” 2000, Vol. 5 (1st ed. Warszawa 1938), p. 17.

⁴ The history of Tatar settlements in Lithuania and the Lithuanian-Tatar relations – see J. Tyszkiewicz, *Z historii Tatarów polskich 1794–1944*, Pułtusk 2002, p. 14f.

⁵ Some sources say that Muslim population reached 100,000, but historians question these figures; see J. Sobczak, *Położenie prawne ludności tatarskiej w Wielkim Księstwie Litewskim*, Warszawa–Poznań 1984, p. 43f.

Tatars were granted the right to practice their religion, erect mosques and serve under their own Tatar banners⁶ (Pol. *chorągiew tatarska*).⁷

Tatars first started to settle in the territories of the Crown of the Polish Kingdom in the 17th century in Podlachia (Pol. *Podlasie*), and it was where, in 1679, they were granted land by King John III Sobieski.⁸ They too served under the Crown Tatar banners and fought, among others, in the Battle of Vienna in 1683 against the Ottoman Empire.

Tatars were organized in banners, military units commanded by so-called Tatar Standard-bearers. Tatar Standard-bearers were appointed by the King and held military, administrative and judicial functions. Therefore, the Tatars who served in the army did not fall under general administration in those territories.⁹ There were also Tatars among city dwellers; others were craftsmen or direct subjects of Lithuanian magnates.¹⁰

Tatars living in Polish-Lithuanian Commonwealth were Sunni Muslims of the Hanafi School who enjoyed freedom of religion, and there were no serious attempts to convert them to Christianity.¹¹ On the lands they inhabited they were allowed to erect mosques on royal privileges. They were organized in religious communities concentrated around mosques called *jami* (Pol. *dżami*). The committees consisting of the community members were called *jamiyats* (Pol. *dżamiat*) and they were presided by a local Tatar *chorąży*. The *jamiyats* elected mosque Imams called Mullahs (Pol. *mołła*). Mullahs were not only mosque leaders, but also acted as community member representatives before courts and in offices, kept register books of births and deaths and administered oaths.¹² There were also religious endowments (from Turkish called here *wakuf*), which were connected to individual mosques.

Until the sixteenth century the social status of the Tatars who served in the army in return for the land was comparable to that of Lithuanian *szlachta* (the Polish name for the nobility). However, the Tatars occupied a lower position in the social hierarchy because they mobilized at the command of a prince, unlike *szlachta*, who mobilized only

⁶ Banner (Pol. *chorągiew*) – a basic administrative unit of cavalry in both the Crown and Lithuanian army, consisted on average of 100 to 200 horsemen and was commanded by *Chorąży* (standard-bearer); there were, most importantly, district banners (*chorągiew ziemską*) formed by knights of the district, as well as clan banners (*chorągiew rodową*) formed by clans, court banners (*nadworna chorągiew królewska*), Tatar banners (*chorągiew tatarska*) and Cossack banners (*chorągiew kozacka*).

⁷ Since the 17th century the military units called banners had their own imams – military chaplains; for more details see: J. Tyszkiewicz, op. cit., p. 298–299.

⁸ S. Kryczyński, *Tatarzy litewscy*, op. cit., p. 27. In two of the granted villages Bohoniki and Kruszyniany, there are still Muslim communities, mosques and *mizars* (cemeteries). There are also Tatars living in Krynki and Sokółka to this day.

⁹ J. Sobczak, op. cit., p. 65f.

¹⁰ Ibid., p. 51f.

¹¹ P. Borawski, A. Dubiński, *Tatarzy polscy, Dzieje, obrzędy, tradycje*, Warszawa 1986, p. 74.

¹² J. Sobczak, op. cit., p. 77.

during the common mobilization of armed forces (Pol. *pospolite ruszenie*).¹³ Moreover, as Muslims, Tatars did not possess full political rights, their participation in the judicial system was limited,¹⁴ and for a long time they were not allowed to sell their land.¹⁵ However, in the sixteenth century their social status in public opinion and in practice equalled that of all Lithuanian *szlachta*,¹⁶ and in the seventeenth century they officially received all the civil rights of *szlachta*.¹⁷ In the second half of the 18th century the legal status of their land ownership was changed from fief to hereditary property.¹⁸ The Constitution of 3rd May 1791 finally granted them full political rights.¹⁹

In 1795 due to the Third Partition carried out by Russia, Prussia and Habsburg Austria, Poland lost its independence. The lands inhabited by Tatars were incorporated into the Russian Empire and Polish Muslims got under Russian authority.

In 1794 Catherine the Great confirmed all the noble privileges of Tatars which they possessed in Poland as well as their land ownership and the right to freedom of religion.²⁰ In 1840 Tatars were the only representatives of non-Christian *szlachta* in Russia to keep the privilege of land ownership,²¹ in addition they performed clerical functions which were reserved to *szlachta* and they served in the Russian army.²²

2. The Second Republic of Poland 1918–1939 – the Act of 21 April 1936

When Poland attained independent statehood in 1918, after 123 years of partitions, the population of Polish-Lithuanian Tatars on its lands numbered about 5,500, and there were 19 Muslim religious communities operating.

The Constitution of 1921 guaranteed freedom of conscience and religion, but at the same time, Catholic Church held a privileged position (article 114). Therefore it was a religious state, which gave financial support to its dominant church and established

¹³ A.B. Zakrzewski, *Czy Tatarzy litewscy rzeczywiście nie byli szlachtą?*, „Przegląd Historyczny” 1988, 79:3, p. 573.

¹⁴ Tatars acquired full political rights automatically upon converting to Christianity; for more details see A.B. Zakrzewski, *Położenie prawne Tatarów w Wielkim Księstwie Litewskim*, in: T. Bairaškaitė, H. Kobeckaitė (eds.), *Kipčiakų tiurkų Orientas Lietuvoje: istorija ir tyrinų perspektyva*, Danielius, Vilnius 1994, p. 118f.

¹⁵ J. Sobczak, op. cit., p. 85f.

¹⁶ For more details see A.B. Zakrzewski, *Czy Tatarzy litewscy rzeczywiście...*, op. cit., p. 574f.

¹⁷ Ibid. p. 579; P. Borawski, A. Dubiński, op. cit., p. 85–87.

¹⁸ S. Kryczyński, op. cit., p. 31f.

¹⁹ L. Bohdanowicz, S. Chazbijewicz, J. Tyszkiewicz, *Tatarzy muzulmanie w Polsce*, Gdańsk 1997, p. 14.

²⁰ However, the verification process of Tatar nobility lasted until 1870, and for the majority of Tatars it was successful; J. Tyszkiewicz, *Z historii Tatarów polskich...*, p. 77–81.

²¹ Ibid., p. 81; L. Bohdanowicz, S. Chazbijewicz, J. Tyszkiewicz, op. cit., p. 39.

²² Despite their relatively good situation, Tatars participated in Polish uprisings against Russia in 1830 and 1863; S. Kryczyński, op. cit., p. 38.

the Ministry of Religious Denominations and Public Enlightenment.²³ At the same time though, Poland financially supported seven officially recognized denominations, and Islam was one of them.

Polish Muslims enjoyed full freedom of worship but they did not have their all-Polish organization. Before 1918 they were under the authority of the Mufti of Simferopol (Crimea) – head of Taurida Muslim Spiritual Board,²⁴ otherwise closed down after the Soviet army conquered Crimea in 1920. In 1925, with the consent of the Ministry of Interior and with the financial support from the Ministry of Denominations and Public Enlightenment, an all-Polish Convention of Delegates from Muslim Communities (*Wszechpolski Zjazd Delegatów Gmin Muzułmańskich*) took place in Vilnius. Delegates to the convention established *Muzułmański Związek Religijny* (the Muslim Religious Union, henceforward the MZR) and elected the Mufti – an Orientalist Jakub Szynekiewicz (1884–1966),²⁵ with the seat in Vilnius.²⁶ However, it was only in 1936 that Islam was finally officially recognized by the Polish Parliament in the Act of 21 April 1936, which defined the relationship between the State and the MZR.²⁷ The Union was independent of any clerical or secular authorities, it gained legal entity.

Apart from defining in detail the relationship between the State and Muslims represented by the MZR, the Act described the principles of functioning of the MZR and the procedures of electing the Mufti²⁸, the Supreme Muslim Council, Imams and Muezzins.²⁹ The Act stated that all Muslim officials should hold Polish citizenship, as well as speak and write Polish (Article 6 and 23); Polish was also an official language of the MZR (Article 23). Muslim religious officials were entitled to special rights guaranteed by the state legislature to clergy of officially recognized denominations (Article 24), including the right to be paid state funded salaries transferred by the Ministry of Religious Denominations and Public Enlightenment (Article 38). Furthermore, the Act quoted oaths on the Qur'an which were to be sworn by the MZR officials, and in which they pledged to remain loyal citizens of the Republic of Poland, contribute to her wellbeing and obey the Constitution (Article 9, 11 and 19).

Islam classes in primary schools were allowed to be held based on generally accepted rules. They were conducted by suitably qualified individuals appointed by school authorities

²³ Despite the right to freedom of religion, every student under the age of 18 was obliged to attend religious education classes; for more details see: M. Pietrzak, *Prawo wyznaniowe*, Warszawa 1999, p. 114–115, 123–124, 141 an on.

²⁴ J. Tyszkiewicz, *Z historii Tatarów polskich*, p. 82.

²⁵ For more information about Szynekiewicz see: *ibid.*, p. 149–151.

²⁶ A. Miśkiewicz, *Tatarzy polscy 1918–1939*, Warszawa 1990, p. 35f.

²⁷ For the circumstances of passing the bill see J. Sobczak, *Położenie prawne polskich wyznawców islamu*, in: R. Bäcker, Sh. Kitab (eds.), *Islam a świat*, Toruń 2004, p. 173f.

²⁸ The Minister of Religious Denominations and Public Enlightenment had to approve the candidates for the position of Mufti and confirm his election – Article 6 of the Act of 21 April 1936.

²⁹ The candidates running for the office of Imam and Muezzin were announced to appropriate Voivodes by the Mufti, Voivodes had to accept the candidates and had the right to relieve them of their posts – Article 18 and 20 of the Act of 21 April 1936.

from among people designated by Mufti.³⁰ Every Muslim student had to attend Islam classes until the age of 18 (Article 32). The Supreme Muslim Council had the right to open their own schools in order to educate the clergy and religious instructors, yet the school curriculum had to be approved by the appropriate Minister (Article 33).

The MZR operated based on the above mentioned Act and on the Statute ratified by the Cabinet of Ministers, as constituted under Article 2 of the Act. It should be mentioned that not only the MZR, but also religious communities were a legal person (Article 35). They were granted tax allowances or tax exemptions, which were enjoyed by other denominational organizations, whereas the head offices of the clergy and the MZR authorities were to be treated on equal terms as the offices of public servants (Article 41). All historical buildings belonging to the communities were taken care of by the state (Article 39), and *waqfs*, i.e. religious foundations, were exempt from taxation and other payments (Article 43–45). Muslims were also given the right to spiritual care in hospitals and the army (Article 22).

Therefore, despite the unique position of the Catholic Church, Islam, along with other officially recognized religions, enjoyed special privileges and its functioning was financed by the state, which, in turn, supervised religious officials regarding secular matters.

3. The People's Republic of Poland – 1945–1989

After the Second World War Poland became one of the satellite states of the Soviet Union; the power was taken over by the communist party, and until 1989 Poland functioned behind the so-called “Iron Curtain”. Poland was then officially transformed into the People's Republic of Poland.

As a result of the post-war agreements between three great powers of the United States, the British Empire and the Soviet Union, 90 percent of the territories inhabited by Polish-Lithuanian Tatars were incorporated into the Soviet Union and lay within the borders of the present-day Lithuania and Belarus. There were only three pre war religious communities left within the borders of Poland – in Warsaw, Kruszyń and Bohoniki.

Due to the extensive post-war territorial changes, Poland received former German territories known as “Western Territories”, which had been part of Poland at different times in the past, but belonged to the Third Reich before the Second World War. The majority of Germans left those territories before or right after they were taken over by Polish administration. Subsequently, many Tatars, for fear of the Soviet Union, fled their lands, and were repatriated to the “Western Territories”. New Muslim religious communities were established there, first in Gdańsk and Gorzów Wielkopolski.

³⁰ During Muslim holidays the Ministry, on request of the Mufti, allowed Muslim students to be absent from school; and during Friday prayers Muslims had to say prayers for the Republic and the President – Article 34 of the Act of 21 April 1936.

In 1947 the MZR was re-activated and its name was changed from Muzułmański Związek Religijny w Rzeczypospolitej Polskiej (The Muslim Religious Union in the Republic of Poland) into Muzułmański Związek Religijny w Polskiej Rzeczypospolitej Ludowej (The Muslim Religious Union in the People's Republic of Poland).

The People's Republic of Poland was not a democratic state, the human rights were violated, and because of the Communist ideology, it adopted a hostile attitude towards religion. As a result of post-war migrations Muslim Tatars were dispersed, there was lack of Islamic clergy, places of prayer and religion teachers. The level of religious education was not high either, partly due to the fact that Poland was isolated from other countries and their Muslim educational centres. Therefore for years the functions of imams were held by the pre war educated Tatars.³¹

4. The Third Republic of Poland – the Present State

After 1989, as a result of political transitions, which followed the liberation from the communist regime, and the change of the government system, Poland became a democratic state. All the rights and freedoms which were in accordance with the European standards were restored to Polish citizens. The legal attitude towards religion changed as well, for a so-called “friendly” separation of church and state was introduced, and Polish citizens were guaranteed freedom of conscience and religion. The relations between church and state are now regulated, above all, by two legal acts: the Constitution of the Republic of Poland of 2 April 1997 and the Act on the Freedom of Conscience and Religion of 17 May 1989.³² All the legal acts refer to Muslims as well. Nevertheless, the Act of 21 April 1936 on the Relationship between the State and the MZR was not repealed by the *Sejm* (Parliament) of the Republic of Poland, and according to Polish legislation all legal acts from before 1939 remain in force unless repealed.³³

Nowadays Muslims on Polish territories constitute a small religious minority, but there are no precise data available concerning the number of Polish Muslim population. The national population census does not include a question about religion,³⁴ whereas statistics differ depending on the source. Official statistics provide only the number of members of the MZR (The Muslim Religious Union in the Republic of Poland) – in 2002 there

³¹ For more details see: A.S. Nalborczyk, *Islam in Poland. The past and the present*, “Islamochristiana” 32, 2006, p. 234.

³² Tekst jednolity Dz.U. nr 231/2005, poz. 1965. For more details see: M. Pietrzak, *Nierzyskokatolickie kościoły i związki wyznaniowe w Rzeczypospolitej Polskiej (1989–2000)*, in: B. Górowska (ed.), *Przestrzeń polityki i spraw wyznaniowych*, Warszawa 2004, p. 393f.

³³ For more details see: P. Borecki, *Położenie prawne wyznawców islamu w Polsce*, „Państwo i Prawo” 63:1, 2008, p. 73.

³⁴ According to Article 53, paragraph 7 of the Constitution: „No one may be compelled by organs of public authority to disclose his philosophy of life, religious convictions or belief.”

were 5123 members.³⁵ The population of Tatars in Poland is estimated at 5–6 thousand,³⁶ and the number of immigrant Muslims at 15–25 thousand. These two numbers amount to 0.05–0.08 percent of the total population of Poland.

Pursuant to Article 25 of the Constitution of the Republic of Poland of 1997 “public authorities shall be impartial in matters of personal conviction, whether religious or philosophical, or in relation to outlooks on life”³⁷ and all the citizens are guaranteed freedom of conscience and religion. All the officially recognized churches and religious communities are to have equal rights, they remain autonomous from the State and their relations with the State “shall be determined by statutes adopted pursuant to agreements concluded between their appropriate representatives and the Council of Ministers.”³⁸ However, only 15 main and oldest of the 150 officially recognized churches and religious organizations operate according to the agreements regulating their relations with the State.³⁹ Moreover, religious organizations enjoy tax privileges.

4.1. Muslim religious communities

The principles of establishing and legalization of religious communities by way of registering denominational organizations in the Register of the Ministry of Interior and Administration were regulated in the Act of 17 May 1989 on the Guarantees of Freedom of Conscience and Religion. A denominational organization can be registered based on the proposal signed by 100 Polish citizens. Denominational organizations are autonomous from the state as far as their internal statute is concerned, but they are registered and can be delegalized by the state. The activities of religious communities are not funded by the state; neither does the state pay salaries of their officials, unless they teach religious education in schools or work as chaplains in the army or hospitals.⁴⁰

There are 6 Islamic religious communities operating in Poland. Apart from the Sunni MZR, there is also the Sunni Muslim League (*Liga Muzułmańska*) which was registered in 2004; two Shi'i organizations: the Muslim Unity Society (*Stowarzyszenie Jedności Muzułmańskiej*) and the *Ahl-ul-Bayt* Islamic Assembly (*Islamskie Zgromadzenie Ahl-ul-Bayt*) both registered in 1990; and unorthodox: the *Ahmadiyya* Muslim Association (*Stowarzyszenie Muzułmańskie Ahmadiyya*) registered in 1990 and The Sufi Order of the West in Poland (*Zachodni Zakon Sufi w Polsce*) registered in 1991.

³⁵ *Niektóre wyznania religijne w Polsce w 2002 r.*, *Mały rocznik statystyczny 2003* GUS, Warszawa 2003, p. 135–137. *Mały rocznik statystyczny 2004* does not quote any data concerning members of the MZR in Poland.

³⁶ In census 2001, circa 3000 people declared Tatar nationality – *Rocznik Demograficzny*, GUS, 2002–2003. However, Tatars consider themselves Muslim Poles, so the number may be lower than the actual number of people of Tatar origin. But some Tatars are Christians.

³⁷ *The Constitution of the Republic of Poland*, The Senat of the Republic of Poland <http://www.senat.gov.pl>, <http://www.senat.gov.pl/k5eng/dok/konstytu/2.htm>.

³⁸ *Ibid.*

³⁹ For more details see: M. Rynkowski, *State and church in Poland*, in: G. Robbers, *State and church in the European Union*, Baden-Baden 2005, p. 420f.

⁴⁰ M. Rynkowski, *State and church in Poland*, p. 421f.

Among these organizations the Muslim Religious Union in the Republic of Poland has the highest number of members (The Muslim League has 180 members), and is the only one to operate based on the Act of 21 April 1936 which defined the relationship between the MZR and the State and was not repealed by the Sejm. Some articles of the Act, however, lost their legal force, because they contradict the Constitution of the Republic of Poland of 1997, namely the articles concerning financial support from the state, describing Vilnius⁴¹ as the seat of the MZR and the Mufti and compulsory membership in the Muslim Religious Union.⁴² Despite being partly outdated, the Act gives the MZR special privileges, e.g. the right to conduct religious education in schools. Since March 2004 the office of the Mufti of the Republic of Poland has been held by a Tatar, Tomasz Miśkiewicz. He is the first Mufti elected after the Second World War.⁴³

4.2. Religious education

Every religious community with a regulated legal status (operating under a special legal act) according to Article 53, paragraph 4 of the Constitution has the right to teach its religion in schools. In practice, however, according to the regulation of the Minister of National Education of 14 April 1992 religious education classes can be organized when there are at least seven students of a particular denomination in one school.⁴⁴ Article 32 of the Act of 21 April 1936 describing the relationship between the State and the MZR lost its legal force, as it stated that attending Islam classes is compulsory for every Muslim student – the article is contrary to the Constitution.

All religious organizations, however, have the right to organize after-school religious education (Article 19, paragraph 10 of the Act on the Guarantees of Freedom of Conscience and Religion), and to establish denominational schools (Article 21), the only requirement is a specially prepared room.⁴⁵

4.3. Marriage

According to Polish law Muslim marriage does not entail any civil consequences; however, the institution of denominational marriage with legal effects was granted to 10 other religious organizations.⁴⁶ A civil marriage in the register office is followed by a Muslim ceremony in a mosque. Denominational marriages of people with foreign

⁴¹ The city is now within the borders of Lithuania.

⁴² For more detail see: P. Borecki, *op. cit.*, p. 82.

⁴³ After World War II, a new Mufti was not elected, because the postwar perpetual and Jakub Szynkiewicz lived abroad (he died in 1966). Then there was no competent candidate. Tomasz Miśkiewicz has a degree in Muslim theology and speaks Arabic.

⁴⁴ *Ibid.*, p. 77–78.

⁴⁵ *Ibid.*, p. 78.

⁴⁶ *Ibid.*, p. 79.

citizenship are validated upon the International Private Law; however, it does not legalize polygamy – a common Muslim practice.

4.4. Ritual slaughter

The Act of 17 May 1989 on the Guarantees of Freedom of Conscience and Religion (Article 2, paragraph 9) ensures that Muslims have the right to produce, purchase and possess articles necessary for observing religious rules. Detailed Polish regulations allow exceptions from the requirement for stunning and immobilization of cattle before slaughter according to religious rules. This allows fulfilling the special requirements of Muslim ritual slaughter, *halal*. However, it was contrary to the right to freedom of religion when in 2006⁴⁷ the Polish government granted the right to issue *halal* certificates for meat and other food products in Poland only to Mufti Tomasz Miśkiewicz.⁴⁸ Nevertheless, these resolutions have already been repealed and the Muslim League gained the same right to issue *halal* certificates.

4.5. Waqf – religious endowments

The institution of *waqf* in Polish law functions only with reference to the MZR, and is described in the Articles 43-46 of the Act of 21 April 1936 on the Relationship between the State and the MZR. Other denominational organizations do not have the right to own *waqfs*.

4.6. Funeral

The right of burial in accordance with religious customs is also assured in the Act on the Guarantees of Freedom of Conscience and Religion, article 2 of the act 12. Polish Muslims observe the custom of burial within 24 hours of death, as regulated by Shari'a, but use coffins, not shrouds.⁴⁹ There are three traditional Muslim cemeteries in Poland which are still open and special sections in communal cemeteries allotted to Muslims.

4.7. Dress – headscarf

Polish law does not describe the right to wear religious dress in public places such as a head scarf or other kind of Muslim head cover called *hijab*. The law is only limited

⁴⁷ The certificates were issued based on the agreements with the Chief Veterinary Officer and are dated 16th November 2006.

⁴⁸ *Halal Poland*, <http://www.halalpoland.pl/>.

⁴⁹ Paragraphs 4–6 of the regulation of the Minister of Health of 7 December 2001 on the disposal of human corpses and remains; P. Borecki, op. cit., p. 76.

in the case of people holding public offices, as according to the article 25 of the act 2 of the Constitution, their position requires being impartial in religious matters.⁵⁰

4.8. Religious holidays

According to Article 42 of the Act on the Guarantees of Freedom of Conscience and Religion, people of those denominations of which holidays are not legal holidays can be allowed a day off work or school on condition that it is made up for. Polish Muslims often say their prayers on Sunday instead of Friday – it is regulated by a special *fatwa* issued by the Mufti.

4.9. Mosques

Muslim religious organizations have the right to erect sacred buildings such as mosques or prayer centres, as guaranteed under article 19, paragraph 6 of the Act on the Guarantees of Freedom of Conscience and Religion. According to Article 17 of the same Act, the state is obliged to help maintain and restore historical sacred buildings – there are two historical mosques in Poland: an 18th century mosque in Kruszyniany, and a 19th century mosque in Bohoniki.

Conclusions

Both confessional law specialists and Muslims themselves agree that Polish legislation sufficiently guarantees freedom of religion. The problem, however, could arise from the fact that many regulations included in the Act of 21 April 1936 on the Relationship between the State and the Muslim Religious Union, the MZR, are outdated. The MZR authorities put forward a motion regarding a new act which would regulate the relationship between the State and the MZR. Another problem concerning Muslim-Polish relations could be the fact that there are two Sunni Muslim religious communities with similar statutes. However, due to the fact that Muslims have been present on Polish territories for centuries, Islam is viewed as a traditional religion. In fact the Republic of Poland was the third country in Europe to officially recognize Islam as a religion in 1936, following Austro-Hungary in 1912 and Finland in 1922. For that reason the legal situation of Muslims in Poland is relatively better than in other European countries, where Islam appeared comparatively recently.

⁵⁰ Article 12, paragraph 2 of the Act on the Guarantees of Freedom of Conscience and Religion describes that only clergy and members of monastic orders have the right to wear customary dress; for more details see: P. Borecki, *op. cit.*, p. 76–77.